THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case no 2026-176298

(1) REPORTABLE: Yes☐/ No ☒
(2) OF INTEREST TO OTHER JUDGES: Yes☐ / No ☒
(3) REVISED: Yes ☒ / No ☐

Date: 31 July 2026 [redacted]

In the matter between:

ONAI MUPFUNGURI	Applicant
and	
COMIT CAPITAL (PTY) LTD	Respondent

JUDGMENT

DU PLESSIS J

Introduction

[1] The applicant seeks urgent final mandatory relief directing the respondent to reinstate a funded trading account and to process a payout request said to arise under the parties' agreement. The respondent opposes the application, amongst other things, on the issue of urgency.

[2] The respondent submits that in any case, the applicant has failed to establish the clear right required for final mandatory relief and characterises the dispute as an

ordinary commercial contractual dispute concerning the interpretation and enforcement of a simulated trading agreement, contractual compliance assessments, disputed trading data and the application of proprietary trading rules.

[3] Since I am inclined to strike the matter for lack of urgency, it is unnecessary to decide any of the underlying merits. The application falls to be struck from the urgent roll because the applicant has failed to establish that he will not obtain substantial redress in due course. I provide written reasons for this decision for the benefit of the applicant, who represented himself.

[4] In terms of Rule 6(12), the applicant must set out explicitly the circumstances that render the matter urgent, and the reasons why substantial redress will not be available at a hearing in due course. Colloquially, the question that is often asked in urgent court is "where is the fire that needs to be put out now"? The test is somewhat stringent, and the reason for that lies in the fact that bringing an application to urgent court on truncated timelines deprives the respondent of a fair opportunity to prepare its case. It also burdens the court with having to prepare and decide matters on rather short notice, which might be necessary to do if there is a fire to be put out, but should be avoided if the applicant can obtain substantial redress in the ordinary courts.

[5] The enquiry is thus not whether the immediate relief would be convenient, commercially desirable, or advantageous. The enquiry is whether, if the matter were to proceed in the ordinary course, the applicant would be deprived of substantial redress.

[6] The applicant sought to justify urgency on two bases. The first was what he termed "visa expiry / total lack of redress", namely that his visitor's visa would expire on 10 September 2026 and that relegation of the matter to the ordinary roll would outlast his lawful presence in the Republic, thereby barring his access to the court and rendering the principal relief nugatory. The second was what he called "fluid asset lockdown", namely that the continued deactivation of the funded account prevented him from managing real-time market risk and caused continuous commercial harm not remediable by damages.

[7] The difficulty is that these assertions lack a factual foundation sufficient to meet Rule 6(12). The respondent submits that the applicant has not explained why leaving South Africa temporarily would hinder him from pursuing proceedings via legal representatives, or why he could not return if his personal attendance becomes necessary. Furthermore, the respondent points to the applicant's own visa records, which reportedly show at least two instances of leaving and re-entering the country within a year, including same-day trips. These records serve as objective material undermining the claim that his current departure would prevent him from engaging in future litigation.

[8] There is thus nothing in the papers that convinces me that substantial redress would not be available in due course. The dispute is at its core a commercial contractual dispute concerning the alleged termination of a funded account, the refusal of a payout request, and the continuation of a trading relationship. The applicant does not explain why, if he is ultimately right on the contract, damages, specific performance, or other contractual relief pursued in the ordinary course would not constitute substantial redress.

[9] The applicant's submission regarding his visa expiry does not change that conclusion. On his own version, he is presently in South Africa on a visitor's visa. That does not, without more, show that he cannot litigate in due course. The documents do not prove that he cannot instruct lawyers, pursue proceedings remotely if needed, or return to the country if required for the case.

[10] The requirement that substantial redress must be unavailable in due course is a threshold jurisdictional requirement of urgent motion procedure. Where an applicant fails to satisfy that requirement, the court should not relax the Rules merely because the applicant would prefer an immediate commercial outcome.

[11] The respondent was required on severely truncated timelines to oppose an urgent application seeking final mandatory relief. It was compelled to, in two court days, investigate a complex commercial dispute and prepare the necessary affidavits and heads of argument. In circumstances where urgency was not established, there is no reason why costs should not follow the result.

Order

[12] The following order is made:

1. The application is struck from the roll for lack of urgency, with costs.

[redacted]

WJ du Plessis
Judge of the High Court, Gauteng Division, Johannesburg

Date of hearing:	30 July 2026
Date of judgment:	31 July 2026
For the applicant:	In person.
For the respondent:	S Meyer instructed by Ulrich Roux and Associates.